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### Duties of Comptroller: County of Rensselaer v. Regan

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## DUTIES OF COMPTROLLER

*N.Y. CONST. art. V, § 1:*

*The comptroller shall be required: (1) to audit all vouchers before payment and all official accounts; (2) to audit the accrual and collection of all revenues and receipts; and (3) to prescribe such methods of accounting as are necessary for the performance of the foregoing duties. The payment of any money of the state, or of any money under its control, or the refund of any money paid to the state, except upon audit by the comptroller, shall be void, and may be restrained upon the suit of any taxpayer with the consent of the supreme court in appellate division on notice to the attorney-general. In such respect the legislature shall define his powers and duties and may also assign to him: (1) supervision of the accounts of any political subdivision of the state; and (2) powers and duties pertaining to or connected with the assessment and taxation of real estate, including determination of ratios which the assessed valuation of taxable real property bears to the full valuation thereof, but not including any of those powers and duties reserved to officers of a county, city, town or village by virtue of section seven and eight of article nine of this constitution. The legislature shall assign to him no administrative duties, excepting such as may be incidental to the performance of these functions any other provision of this constitution to the contrary notwithstanding.*

## COURT OF APPEALS

County of Rensselaer v. Regan<sup>685</sup>  
(decided November 19, 1992)

Plaintiffs, consisting of five counties participating in the state's special traffic options program for driving while intoxicated [hereinafter STOP-DWI],<sup>686</sup> as well as the STOP-DWI

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685. 80 N.Y.2d 988, 607 N.E.2d 793, 592 N.Y.S.2d 646 (1992).

686. N.Y. VEH. & TRAF. LAW § 1197 (McKinney Supp. 1992) (amending N.Y. VEH. & TRAF. LAW art. 43-A § 1678 (McKinney 1981)).

Coordinators Association and the STOP-DWI Coordinator of Rensselaer County, brought suit challenging an appropriations provision in the 1990-91 State Operations Budget, claiming it conferred duties upon the State Comptroller which were not sanctioned by article V, section 1<sup>687</sup> of the New York State Constitution.<sup>688</sup> On appeal, defendants argued that plaintiffs

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687. N.Y. CONST. art. V, § 1. Article V, section 1 provides in part:

The comptroller shall be required: (1) to audit all vouchers before payment and all official accounts; (2) to audit the accrual and collection of all revenues and receipts; and (3) to prescribe such methods of accounting as are necessary for the performance of the foregoing duties. The payment of any money of the state, or of any money under its control, or the refund of any money paid to the state, except upon audit by the comptroller, shall be void, and may be restrained upon the suit of any taxpayer with the consent of the supreme court in appellate division on notice to the attorney-general. In such respect the legislature shall define his powers and duties and may also assign to him: (1) supervision of the accounts of any political subdivision of the state; and (2) powers and duties pertaining to or connected with the assessment and taxation of real estate, including determination of ratios which the assessed valuation of taxable real property bears to the full valuation thereof, but not including any of those powers and duties reserved to officers of a county, city, town or village by virtue of section seven and eight of article nine of this constitution. The legislature shall assign to him no administrative duties, excepting such as may be incidental to the performance of these functions any other provision of this constitution to the contrary notwithstanding.

*Id.*

688. Plaintiffs originally asserted three grounds for invalidating the Budget Provision under the State Constitution: (1) an article V, § 1 argument, discussed in the main text that the provision imposes duties upon the Comptroller not incidental to his constitutional duties; (2) an article III, § 1 argument that the provision imposes lawmaking duties without adequate guidelines; and (3) an argument that the provision violates article IX, § 1 and 2 by interfering with the counties' home rule power. *County of Rensselaer v. Regan*, 151 Misc. 2d 552, 553, 573 N.Y.S.2d 345, 346 (Sup. Ct. Albany County 1991). The court found the Budget provision invalid under the first constitutional argument and declined to consider the other two arguments. *Id.* at 555-56, 573 N.Y.S.2d at 348. On appeal, the third department affirmed the supreme court's ruling based upon the article V, § 1 argument, also finding it unnecessary to consider the other two constitutional arguments. *County of Rensselaer v. Regan*, 173 A.D.2d 37, 42, 578 N.Y.S.2d 274, 277 (3d Dep't

lacked the proprietary interest necessary to maintain standing to challenge the Budget Provision.<sup>689</sup> In a unanimous decision, the New York Court of Appeals, affirming the Appellate Division, Third Department's ruling,<sup>690</sup> found that plaintiffs had standing to bring suit and held the provision unconstitutional because it assigned to the State Comptroller "duties assertedly not incidental to his constitutional duties."<sup>691</sup>

The New York State Legislature passed Vehicle and Traffic Law article 43-A (later re-enacted as the current Vehicle and Traffic Law 1197) in 1981 to encourage counties throughout the state to establish STOP-DWI programs as a means of reducing the incidence of alcohol-related traffic deaths and injuries within their localities.<sup>692</sup> Any county which elected to participate in this program and whose program proposal is approved by the Commissioner of Motor Vehicles<sup>693</sup> is entitled to have all monies collected by its courts from alcohol-related driving offenses diverted from state revenues in order to fund its STOP-DWI program.<sup>694</sup>

In the 1990-91 State Operations Budget, the Legislature attempted to defray the administrative costs of STOP-DWI by

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1991); *see also* 8 TOURO L. REV. 838 (1992) (discussing the third department decision).

689. *County of Rensselaer*, 80 N.Y.2d at 991, 607 N.E.2d at 795, 592 N.Y.S.2d at 648.

690. *County of Rensselaer v. Regan*, 173 A.D.2d 37, 578 N.Y.S.2d 274 (3d Dep't 1991).

691. *County of Rensselaer*, 80 N.Y.2d at 992, 607 N.E.2d at 795, 592 N.Y.S.2d at 648.

692. *Id.* at 990, 607 N.E.2d at 794, 592 N.Y.S.2d at 647; *see also County of Rensselaer*, 173 A.D.2d at 38-39, 578 N.Y.S.2d at 275.

693. N.Y. VEH. & TRAF. LAW § 1197.

694. *Id.* § 1197. Section 1197 provides:

Where a county establishes a [STOP-DWI program], pursuant to this section, it shall receive fines and forfeitures collected by any court, judge, magistrate, or other officer within that county from [alcohol-related traffic] violations . . . . Upon receipt of these [monies], the county shall deposit them in a separate account . . . and they shall be under the exclusive care, custody and control of the chief fiscal officer of each county participating in the program.

*Id.*

including a provision which gave the State Comptroller the power to withhold up to two percent of all monies collected by any court in the state from alcohol-related driving offenses for administrative cost purposes.<sup>695</sup> Plaintiffs challenged the constitutionality of the state operations budget provision, claiming it imposed administrative duties on the State Comptroller which were not incidental to the Comptroller's constitutional functions, and that the provision was therefore invalid.<sup>696</sup>

Defendants maintained that plaintiffs did not have the necessary proprietary claim on the funds in dispute to establish standing because the funds belonged to the state rather than to the counties.<sup>697</sup> The court dispensed with defendants' argument by explaining that as long as the STOP-DWI legislation remained in effect, the counties continued to have a proprietary interest in the funds collected by their courts, and thus, had standing to bring suit.<sup>698</sup> The court analyzed and distinguished *Town of Moreau v. County of Saratoga*<sup>699</sup> from the case at hand.<sup>700</sup>

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695. *County of Rensselaer*, 80 N.Y.2d at 990-91, 607 N.E.2d at 794, 592 N.Y.S.2d at 647. The provision specifically directed the Comptroller to "collect, withhold and receive and deposit to the credit of the [state] general fund up to two percent of revenues received in any court" from alcohol-related traffic offenses for administrative costs. *County of Rensselaer*, 173 A.D.2d at 39, 578 N.Y.S.2d at 275. (citations omitted)

696. *County of Rensselaer*, 80 N.Y.2d at 991, 607 N.E.2d at 794, 592 N.Y.S.2d at 648.

697. *Id.* at 991, 607 N.E.2d at 795, 592 N.Y.S.2d at 648.

698. *Id.*

699. 142 A.D.2d 864, 531 N.Y.S.2d 61 (3d Dep't 1988).

700. *County of Rensselaer*, 80 N.Y.2d at 988, 607 N.E.2d at 793, 592 N.Y.S.2d at 646. The court in *Mureau* held that to have standing, the plaintiff needs to assert a proprietary claim of entitlement. *Mureau*, 142 A.D.2d at 864, 531 N.Y.S.2d at 61. In *Mureau*, the claim was too speculative, whereas in *Regan*, the claim was absolute and unconditional. *But see City of New York v. Lawton*, 128 A.D.2d 202, 206, 515 N.Y.S.2d 903, 906 (3d Dep't 1987) (stating that petitioner's claim to entitlement to a specific fund was a proprietary right and provided standing); *Purcell v. Reagan*, 126 A.D.2d 849, 850, 510 N.Y.S.2d 772, 773 (3d Dep't 1987) (holding that government cannot challenge a statute that affects or restricts the governments powers but has standing to challenge proprietary powers).

The court of appeals found the budget provision unconstitutional because it conferred broad and discretionary administrative duties on the State Comptroller in violation of article V, section 1 of the New York State Constitution.<sup>701</sup> While the state legislature “has ultimate authority over the disposition of [court revenues] collected,”<sup>702</sup> the court noted that in its method of asserting that authority, the legislature must at all times remain within the confines of the State Constitution.<sup>703</sup> The New York case, *Patterson v. Carey*,<sup>704</sup> sets forth an extensive explanation of the duties bestowed upon the comptroller.<sup>705</sup> By assigning duties to the Comptroller beyond the scope of his constitutionally defined duties, the legislature had overstepped its authority, and the provision was held to be invalid.

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701. *County of Rensselaer*, 80 N.Y.2d at 991-92, 607 N.E.2d at 795, 592 N.Y.S.2d at 648.

702. *Id.* at 991, 607 N.E.2d at 795, 592 N.Y.S.2d at 648.

703. *Id.* at 991-92, 607 N.E.2d at 795, 592 N.Y.S.2d at 648 (“[T]he State is supreme, and its legislative body, *conforming its action to the state constitution*, may do as it will . . . .” citing *Hunter v. Pittsburgh*, 207 U.S. 161, 179 (1907) *emphasis added*)).

704. 41 N.Y.2d 714, 363 N.E.2d 1146, 395 N.Y.S.2d 411 (1977).

705. *Id.* at 724-25, 363 N.E.2d at 1151, 395 N.Y.S.2d at 419 The court stated: “Under the plain language of article X, the State Comptroller is granted the discretionary authority to supervise the accounts of public corporations . . . . The Comptroller’s function was perceived by the constitutional draftsman as providing an independent oversight of the accounts of previously unchecked public corporations.” *Id.* at 725, 363 N.E.2d at 1151, 395 N.Y.S.2d at 419.

